

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
8
9

10 TRUSTEES OF THE TEAMSTERS LOCAL
11 631 SECURITY FUND FOR SOUTHERN
12 NEVADA; and TRUSTEES OF THE
TEAMSTERS CONVENTION INDUSTRY
TRAINING FUND,

13 Plaintiffs,

14 v.

15 FRANCES LASLEY, et al.,

16 Defendants.
17

2:11-cv-01764-LDG-PAL

ORDER

18 Plaintiffs have filed a motion for leave to file their second amended complaint (#53,
19 opposition #54, reply #55). Plaintiffs seek to add Display Technologies, LLC, as a new
20 defendant, alleging that it is an alter ego of American Tradeshow, Inc. Defendants oppose the
21 motion on the grounds of time-bar, non-compliance with LR-26-4, and futility.

22 Pursuant to the discovery and scheduling orders, discovery was to close on November 3,
23 2013, with the deadline to amend pleadings or add parties set for August 2, 2013. Plaintiffs took
24 the deposition of Franklin Lasley, the former president of American Tradeshow and Exhibit
25 Design and Production, Inc., on August 22, 2013, in Florida. Counsel for plaintiffs received a
26 transcript of the deposition the week before plaintiffs moved to file their second amended

1 complaint. In the deposition, plaintiffs' counsel asserts that Franklin testified to numerous
2 commonalities between American Tradeshow including the nature of the services, management,
3 supervisors, and employees, use of the same payroll company, bank, and vehicles and equipment.

4 Absent a showing of prejudice, or a strong showing of delay, bad faith, or dilatory motive,
5 "there exists a presumption under Rule 15(a) in favor of granting leave to amend." Eminence
6 Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003). Where an amendment is
7 sought after the deadline for seeking leave to amend pleadings, the moving party must first satisfy
8 the "good cause" standard under the Fed. R. Civ. P. 16(b). Amerisourcebergen Corp. v. Dialysist
9 W., Inc., 465 F.3d 946, 953 (9th Cir. 2006)(citation omitted).

10 Here, plaintiffs have demonstrated ample good cause for filing after the amendment
11 deadline. Discovery was ongoing, and the deposition which put plaintiffs on notice of the alter
12 ego factors between American Tradeshow, Inc., and Display Technologies, LLC, was taken only
13 weeks before the motion to amend was filed. Defendants have not identified sufficient prejudice
14 to warrant a denial of an amendment, and the relationship between the entities justifies plaintiffs'
15 assertion of an alter ego claim in ERISA to prevent entities from avoiding collective bargaining
16 obligations through work shifting. The amendment is not futile, and will be granted.

17 The filing of the second amended complaint may impact the pending motions for summary
18 judgment and permit a possible reopening of limited discovery. The court must defer
19 consideration of the pending dispositive motions until the parties have had an opportunity to
20 develop the record regarding the new claims of the second amended complaint. Accordingly, the
21 pending motions for summary judgment will be denied without prejudice to their refiling after the
22 dispositive motion deadline for the second amended complaint. Accordingly,

23 THE COURT HEREBY ORDERS that plaintiffs' motion to file their second amended
24 complaint (#53) is GRANTED.

1 THE COURT FURTHER ORDERS that the following motions for summary judgment are
2 DENIED without prejudice to their refile after the dispositive motion deadline for the second
3 amended complaint:

4 Defendant Tammy Lasley's motion for summary judgment (#58)

5 Plaintiffs' motion for summary judgment against Exhibit Design and Production (#60)

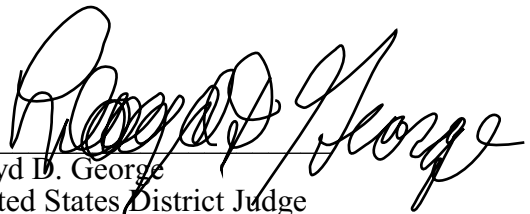
6 Plaintiffs' motion for summary judgment against Franklin Lasley (#61) (the court notes
7 that defendant Franklin Lasley has filed a notice of bankruptcy (#88))

8 Plaintiffs' motion for summary judgment against Great American Insurance Company
9 (#62)

10 Defendants' countermotion for summary judgment as to all defendants based on issue
11 preclusion as a matter of law (#76)

12 THE COURT FURTHER DIRECTS THE PARTIES to consult with the magistrate judge
13 regarding the reopening of discovery pertaining to the newly added party and claims, and the
14 setting of schedules.

15 Dated this 12 day of September, 2014.

16
17 
18 Lloyd D. George
United States District Judge